

ZANDER
Appl. No. 09/836,602
November 12, 2003

REMARKS

Reconsideration is requested.

Claims 1-11 are pending. Claims 12-34 have been canceled, without prejudice.

The Examiner's allowance of claim 6 is acknowledged with appreciation. See, page 6 of the Office Action dated August 11, 2003 (Paper No. 18).

Claim 1 has been amended to further define the recited transgene based on the specification disclosure at, for example, page 6. No new matter has been added. The claims are submitted to be patentable over U.S. Patent No. 5,962,644 (Hawley et al.) and Simmons et al. (Journal of Immunology, 1992, Vol. 148, No. 1, pages 267-271).

Withdrawal of the Section 102 rejections of claims 1-3 and 7-10 over Hawley and Simmons is requested.

The Section 112, second paragraph, rejection of claims 3 and 8 is obviated by the above wherein the objected-to term has been deleted. The applicants believe that mutants are variants. Withdrawal of the Section 112, second paragraph, rejection of claims 3 and 8 is requested.

The Section 112, first paragraph, rejection of claims 1-5 and 7-11 is, to the extent not obviated by the above, traversed. Consideration of the following comments in this regard is requested.

The Examiner will appreciate that the variant and fragment of the claims has been further specifically defined as being identifiable by an antibody against CD34. The Examiner is urged to appreciate that CD34 is well characterized and antibodies to the

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same may be made and are well-known. See, for example, resources available on the Internet, such as at the NIH website www.ncbi.nlm.nih.gov/prow/guide/968267813g.htm which relates to a specific section of "Protein Reviews On The Web" specifically dedicated to CD34, the first seven pages of which is attached; the Examiner will appreciate that a number of hyperlinks with a great deal more information is provided within this website. Other information is available from sources such as PubMed, also available through NCBI. The Examiner's comment therefore that the prior art does not appear to teach in what ways one can alter given CD34 polypeptide and still have it remain detectable by given CD34 detection method, is believed to be unsupported and contrary to the expectations of one of ordinary skill in the art.

Withdrawal of the Section 112, first paragraph, rejection of claims 1-5 and 7-11 is requested.

The application is submitted to be in condition for allowance and a Notice to that effect is requested.

The Examiner is requested to contact the undersigned if anything further is required in this regard.

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Respectfully submitted,

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By: _____



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